

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: CALIHAN KENNETH R **FILED**
 (Last) (First) (Middle Initial)
 NOV 20 2019
 Prisoner Number: 19032281 (EFO864)
 Institutional Address: 701. SMITH ABEL STREET
MILPITAS - CA 95035-
 SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTH DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

KENNETH RAYMOND CALIHAN
 (Enter your full name.)

vs.

BARRETT AUSTIN SWINKER (4343)

JONATHAN EDWARD BARRERA (4336)

SAN JOSE POLICE DEPT. (ETAL)
 (Enter the full name(s) of the defendant(s) in this action.)

CV 19 7645

Case No. 7645
 (Provided by the clerk upon filing)

COMPLAINT UNDER THE
 CIVIL RIGHTS ACT,
 42 U.S.C. § 1983

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement ELMWOOD CORRECTIONAL FACILITY.

B. Is there a grievance procedure in this institution? YES ☒ NO ☐

C. If so, did you present the facts in your complaint for review through the grievance procedure? YES ☐ NO ☒

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: NO GRIEVANCE PROCEDURE FOR THIS COMPLAINT

1 2. First formal level: N/A

2
3
4 3. Second formal level: N/A

5
6
7 4. Third formal level: N/A

8
9
10 E. Is the last level to which you appealed the highest level of appeal available to you?

11 YES ☐ NO ☒

12 F. If you did not present your claim for review through the grievance procedure, explain why.

13 DOES NOT APPLY

14
15
16 **II. Parties.**

17 A. Write your name and present address. Do the same for additional plaintiffs, if any.

18 KENNETH RAYMOND CALIHAN - #19032281

19 701. SOUTH ABEL STREET

20 MILPITAS - CA 95035.

21 B. For each defendant, provide full name, official position and place of employment.

22 (1) GARRETT AUSTIN SLOINKER - Badge # 4343

23 SAN JOSE POLICE DEPT

24 210. WEST MISSION STREET, SAN JOSE - CA 95110

25 (2) JONATHAN EDWARD BARRERA - Badge - #4336

26 SAN JOSE POLICE DEPT

27 210. WEST MISSION STREET

28 SAN JOSE - CA 95110

III. Statement of Claim.

State briefly the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

DEFENDANTS - GARRETT AUSTIN SLOINKER - BADGE # 4343, AND
 JONATHAN EDWARD BARRERA - BADGE # 4336, FILED FALSE CHARGES ON
 ME AUGUST 30, 2019., WHICH RESULTED ME BEING STABBED BY AN-
 OTHER INMATE WHO CAME UP FROM BEHIND ME ON SEPTEMBER 14, 2019,
 WHICH RESULTED IN THE LOSS OF MY RIGHT EYE, ON OCTOBER 04, 2019..
 BOTH DEFENDANTS PRESENTED FALSE INFORMATION TO THE SANTA CLARA
 DISTRICT ATTORNEY, KNOWING THE INFORMATION TO BE FALSE AND HAVE
 NO MERIT, AS THE PENDING CRIMINAL CHARGES WILL BE DISMISSED ON
 DECEMBER 09, 2019 OR DECEMBER 23, 2019.

BOTH DEFENDANTS ARE INVOLVED IN A CORRUPT ORGANIZATION

IV. Relief.

Your complaint must include a request for specific relief. State briefly exactly what you want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.

- (1) DEFENDANT (GARRETT AUSTIN SLOINKER) BE HELD LIABLE FOR THE
 AMOUNT OF \$11,000,000.00.
- (2) DEFENDANT: (JONATHAN EDWARD BARRERA) BE HELD LIABLE FOR THE AMOUNT
 OF \$11,000,000.00 (3) JULY DEMAND. (UNDER THE (RICO) ACT)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: 11/09/19

Date

Kenneth R. Caliber

Signature of Plaintiff

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Attorneys (If Known) - 1 A

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. **Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.